

**HAMPTON ZONING BOARD OF ADJUSTMENT  
MINUTES  
April 18, 2013  
AMENDED**

**Members Present**

Bill O'Brien, Chairman  
Tom McGuirk, Vice Chairman  
Ed St. Pierre, Clerk  
Vic Lessard  
Bryan Provencal

**Others Present**

Kevin Schultz, Building Inspector  
Joan Rice, Secretary

Chairman O'Brien called the meeting to order at 7:04 p.m.

Board members were introduced.

The Pledge of Allegiance was said.

**Election of Officers**

Chairman O'Brien asked for nominations for Chairman for the coming year.

**Moved** by Mr. McGuirk, seconded by Mr. St. Pierre, to appoint Vic Lessard as Chairman of the Hampton Zoning Board of Adjustment for the coming year.

**Vote:** 4 yes, 0 no, 1 abstention (Lessard). Motion passed.

Mr. Lessard then stepped up as Chairman.

Chairman Lessard then asked for nominations for Vice Chairman for the coming year.

**Moved** by Mr. O'Brien, seconded by Chairman Lessard, to appoint Bryan Provencal as Vice Chairman of the Hampton Zoning Board of Adjustment for the coming year.

**Vote:** 4 yes, 0 no, 1 abstention (Provencal). Motion passed.

Chairman Lessard then asked for nominations for Clerk for the coming year.

**Moved** by Mr. O'Brien, seconded by Mr. Provencal, to appoint Ed St. Pierre as Clerk of the Hampton Zoning Board of Adjustment for the coming year.

**Vote:** 4 yes, 0 no, 1 abstention (St. Pierre). Motion passed.

### **PETITION SESSION**

**14-13...**The petition of Benjamin Giordano for property located at 27 Emerald Avenue seeking relief from Article 1.3 and Article IV as to 4.1.1 to reconstruct existing driveway to add a parking space and convert existing finished playroom/workout area into a small studio apartment with accessible bathroom for my mother to occupy. This property is located on Map 22, Lot 23 and in a RB Zone.

Benjamin Giordano, petitioner, came forward. Mr. Giordano said his purpose is to provide a living space for his 78 year old mother. He said there will be minimal impact and all construction will be on the inside. This property is already zoned for multi-family. The lot size and footprint will remain the same. Mr. Giordano went through the five criteria and said he felt they had been met.

#### *Questions from the Board*

Mr. St. Pierre asked about other multi-family units in the area. Mr. Giordano said there was one behind his property and there was another on Acadia.

Mr. McGuirk asked if there was anything that could prevent renting to others. Mr. Schultz said it could be rented to others in the future. Mr. Provencal asked about an "in-law" provision that would say the apartment must be removed when the mother is no longer there. Mr. Schultz said that would be a difficult thing to do because there are other multi-family units in the area.

#### *Comments from the Audience*

There were no comments from the Audience.

#### *Back to the Board*

Mr. St. Pierre expressed concern that if this petition is granted others may be turning their garages into apartments, etc.

Mr. McGuirk said this lot is double the size of others in the neighborhood. There are duplexes on lots smaller than this.

**Moved** by Mr. McGuirk, seconded by Mr. O'Brien, to grant Petition 14-13.

Chairman Lessard asked the Board if they felt the five criteria had been met. All members agreed that they had.

**Vote:** 5 yes, 0 no. Motion passed unanimously.

**15-13...**The petition of Chester & JoAnne Parzick for property located at 16 Cliff Avenue seeking relief from Article I as to 1.3 and Article IV as to 4.5.2 to request side setback relief to expand existing rear porch and provide additional storage, expand living area with side stairs. This property is located on Map 267, Lot 22 and in the RA Zone.

Chester Parzick, Petitioner, came forward. He said his intention was to expand his living space. This should increase the value of the property and is appropriate for this area. Mr. Parzick went through the five criteria and said he felt they had been met.

*Questions from the Board*

Mr. St. Pierre said it seemed that the porch could have been shifted by a foot and a half. Mr. Parzick said he wanted to make sure it is conforming. Mr. St. Pierre said he was trying to see the hardship.

*Comments from the Audience*

There were no comments from the Audience.

*Back to the Board*

Mr. McGuirk said when this house was built it was conforming which also made the porch conforming. This is the hardship.

**Moved** by Mr. O'Brien, seconded by Mr. McGuirk, to grant Petition 15-13 with the stipulation that the existing plot plan be corrected to show the stairs in the back and the stairs should also be reflected in the proposed plot plan as well as the jog in the fireplace.

Chairman Lessard asked the Board if they felt the five criteria had been met. All members agreed that they had.

**Vote:** 5 yes, 0 no. Motion passed unanimously.

**16-13...**The petition of Waterway Realty, LLC for property located at 239 Drakeside Road seeking relief from Article IV as to 4.1.1 and 4.4 and Article VIII as to 8.2.3 and 8.2.6 to construct an under 40 foot tall, six-unit townhouse style building and convert the existing 17-unit office building into five residential units, all in condominium form of ownership where variances for height, density and setback are required. This property is located on Map 157, Lot 2 and in a G Zone.

Attorney Peter Saari, Casassa & Ryan, came forward. He said there would be no change in the exterior of the existing building, but much will be done inside. There will be six

townhouse style condos in the far top left of the lot. The existing vegetation will not be disturbed. No parking relief is needed. A height variance is requested. Attorney Saari went through the five criteria and said he felt they had been met.

*Questions from the Board*

Mr. McGuirk asked if this was a 17 office building. Attorney Saari replied that it was. Mr. St. Pierre asked about the square footage of the lot. Attorney Saari said it is 44,600 square feet. Mr. St. Pierre noted that others in the area have less density.

*Comments from the Audience*

Eric Girard, Drakeside Road, came forward. Mr. Girard said he was opposed to this petition because it seems like the applicant is going to use the front of his land as the back of their property. This limits ability for tenants of the abutting project to use land up front.

Mr. Lessard asked if there is sewer in this area. Attorney Saari said it is septic.

Jodie Strickland, 245 Drakeside Road, came forward. She said she was concerned because the plan does not show a huge pine tree. Ms. Strickland said she was very concerned about density. There are a lot of units on a small piece of property. Ms. Strickland said a real estate agent told her this project would not be good for her property value. Ms. Strickland also said she believes it changes the character of the neighborhood.

Connie White, Property Manager of Appleton Oaks, came forward. She said she was opposed because of density.

Carol Krow, Hampton Woods, came forward. She said she was concerned about the trees. She said there is not enough room for the new structure and traffic would be a problem. A study should be done.

*Back to the Board*

Attorney Saari said the applicant now has a building that is non-productive. As far as vegetation is concerned, the applicant will keep what he can. Also, the density is not unusual.

Mr. O'Brien asked about the size of the units. Attorney Saari said they would be approximately 1,500 square feet. Mr. O'Brien asked about fire truck turnaround. Mr. Schultz said this issue would be addressed by the Planning Board.

Mr. O'Brien said he would like to see Unit 1 disappear because it is sitting in the wetlands.

He also asked if the applicant has thought about tearing the building down and putting something else there that would not require a variance.

Mr. McGuirk said he did not feel this meets the spirit or intent of the ordinance. There are too many units. Mr. St. Pierre agreed that there was too much density.

Attorney Saari was asked if the applicant would withdraw without prejudice. Attorney Saari agreed.

**Moved** by Mr. O'Brien, seconded by Mr. Provencal, to allow the applicant for Petition 16-13 to withdraw without prejudice.

**Vote:** 5 yes, 0 no. Motion passed unanimously.

**17-13...**The petition of Kevin J & Kristine M Sheehan for property located at 77 Brown Avenue seeking relief from Articles 1.3, 4.5.2, 4.5.3 to build new rear stairs replacing deteriorating cement stairs. Build cat walk onto new rear facing 10 x 24 deck. This property is located on Map 287, Lot 3 and in a RB Zone.

Kevin and Kristine Sheehan, petitioners, came forward. Mr. Sheehan said they had purchased this property two years ago. The property has deteriorated and they want to take care of that. The yard cannot be used. The abutters are in favor of their project. Mr. Sheehan went through the five criteria and said he felt they had been met.

#### *Questions from the Board*

Mr. St. Pierre asked if the petitioners would have to go to the Conservation Commission. Mr. Schultz replied that they would in order to work within the buffer.

#### *Comment from the Audience*

There were no comments from the Audience.

#### *Back to the Board*

Mr. O'Brien asked about the shed shown on the schematic. Mr. Sheehan said they are removing the shed. Mr. O'Brien said the schematic shows the shed and he believes a schematic that is submitted should be correct. The person who did the plot plan will have to revise it because the wetlands are not shown. Mr. O'Brien said he would like it to be the responsibility of the Planning Board and Conservation Commission to specify decking material.

**Moved** by Mr. McGuirk, seconded by Mr. Provencal, to approve Petition 17-13 subject to approval of the Planning Board and the Conservation Commission.

Mr. Lessard asked the Board if they felt the five criteria had been met. All members agreed that they had.

**Vote:** 5 yes, 0 no. Motion passed unanimously.

**18-13...**The petition of Robert Montana through Roger Nold, agent, for property located at 375 Winnacunnet Road seeking relief from Article 1.3 and Article IV, Table II 4.5.2 to replace the entire structure essentially as previously existed, with 3 small additions as shown on the drawings. 75 S.F. of west bedrooms was and is, in violation of required 15' side setback in a triangular shape 17.8' long x 8.4' wide with its current point being 7.2' to the proposed to be replaced drip edge. Propose to replace this non-conforming structure exactly in the same exterior plan and roof shape and height but with new windows, siding, etc. The property is located on Map 207, Lot 45 and in a RA Zone.

Roger Nold, agent, came forward. Mr. Nold said the applicants originally planned to do an interior renovation. It became clear there was an extreme amount of mold and rot and the construction was substandard. They came to the conclusion that the best course was to demolish most of the building. This was done including the small triangle referenced here. Mr. Nold went through the five criteria and said he felt they had been met.

#### *Questions from the Board*

Mr. St. Pierre asked about the foundation. Mr. Nold said it is in good shape. Mr. Provencal said it would not be justice to rip out the existing foundation. Mr. Schultz said the applicants have taken on a property that was in horrible condition and are doing some great things with it.

**Moved** by Mr. O'Brien, seconded by Mr. Provencal, to grant Petition 18-13.

Mr. Lessard asked the Board if they felt the five criteria had been met. All members said that they had.

**Vote:** 5 yes, 0 no. Motion passed unanimously.

#### **BUSINESS SESSION**

Motion for Rehearing for Petition 53-12, 73 Ocean Blvd.

At this time, Mr. Provencal and Mr. Lessard stepped down. Mr. O'Brien took over as Chairman.

Acting Chairman O'Brien said there was a hearing in December and variances were granted. In January, there was a Motion for Rehearing filed by an abutter that was approved at the January meeting. We were unable to conduct the meeting until tonight. The rehearing should have been on the Agenda but it was not. Mr. O'Brien said under normal circumstances he would suggest this be continued next month.

The petitioner (Mr. Fluray) was then allowed to speak and he said he would like to withdraw without prejudice as he now has a plan that will not require a variance and would like to have the decision previously made on this petition voided.

**Moved** by Mr. McGuirk, seconded by Mr. St. Pierre, to allow the applicant for Petition 53-12 to withdraw without prejudice and to void the variances previously granted.

**Vote:** 3 yes, 0 no. Motion passed unanimously.

At this time, Mr. Lessard and Mr. Provencal stepped back up to the Board.

### **Adoption of Minutes**

**Moved** by Mr. St. Pierre, seconded by Mr. Provencal, to approve the Minutes of March 21, 2013 and the Minutes of March 28, 2013, as amended.

**Vote:** 4 yes, 0 no 1 abstention (O'Brien). Motion passed.

### **Adjournment**

There being no further business, the meeting was adjourned at 9:20 p.m.

Respectfully submitted,

Joan Rice  
Secretary